



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: R.P. Richards Construction Company--
Reconsideration

File: B-260543.2

Date: August 23, 1995

C. Patrick Stoll, Esq., Herrig & Vogt, for the protester.
Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where protester fails to show that initial decision contains either errors of fact or law and fails to present information not previously considered that warrants reversal or modification of decision.

DECISION

R.P. Richards Construction Company, a division of R.P. Richards, Inc., requests reconsideration of our decision in R.P. Richards Constr. Co., B-260543, June 21, 1995, 95-1 CPD ¶ 280. In that decision, our Office denied Richards's protest of the rejection, as mistaken, of its bid under invitation for bids No. 2-36230, issued by the National Aeronautics and Space Administration (NASA), for seismic repair of a building at the Dryden Flight Research Center. In its reconsideration request, Richards reiterates its contention that the agency had no valid basis for rejecting its bid.

We deny the request for reconsideration because the request provides no basis for reconsidering our prior decision.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1995). The repetition of arguments made during our consideration of the original protest and mere

disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.-Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

At the time of bid opening, NASA believed Richards had made a mistake because its price was significantly out of line with the government estimate (by 68 percent) and with the other responsive bids (27.5 percent lower than the next low bid). Prior to rejecting Richards's bid, the contracting officer provided the protester an opportunity to verify its bid. As part of its verification, Richards was requested to submit a cost breakdown of material and labor by division. Richards did not verify its bid until after the agency had rejected the bid as mistaken, and even then failed to submit the requested breakdown. In our decision, we observed that the protester had still not submitted the breakdown as part of its protest. With its request for reconsideration, Richards has now submitted the breakdown.

To the extent this information could have assisted us in resolving its bid protest, the protester is too late. Parties to a protest that withhold or fail to submit all relevant evidence to our Office in the expectation that we will draw conclusions beneficial to them do so at their peril, since it is not our function or province to prepare, for parties involved in a protest, defenses to allegations raised in the record. Interscience Sys., Inc.; Cencom Sys., Inc.-Recon., 59 Comp. Gen. 658 (1980), 80-2 CPD ¶ 106. Our Office therefore will not reconsider a decision on the basis of an argument previously presented, but supported for the first time in a request for reconsideration by evidence that could have been furnished at the time of our original consideration. See The Department of the Army-Recon., B-237742.2, June 11, 1990, 90-1 CPD ¶ 546.

Richards also contends, as it did in its protest, that NASA failed to show that acceptance of its initial bid would be unfair to Richards or other bidders. See Federal Acquisition Regulation (FAR) § 14.406-3(g)(5). This FAR provision requires consideration of a mistaken bid unless the amount of the bid is so far out of line with the other bids or government estimate or where there are other clear indications of error to reasonably justify the conclusion that "acceptance of the bid would be unfair to the bidder or to other bona fide bidders." In its request for reconsideration, Richards argues that our decision erroneously failed to address the

question of prejudice. While our decision did not specifically so state, prejudice to other bidders is implicit in the circumstances of this case since Richards may well have been the low bidder only because it made a mistake and, by failing to promptly verify its bid, may have been trying to decide whether to stand by its bid or admit a mistake, as its own best interests might dictate. Permitting such an election is not fair to other bidders whose prices have been disclosed at bid opening. Trataros Constr., Inc., B-254600, Jan. 4, 1994, 94-1 CPD ¶ 1; FAR § 14.406-3(g)(5).

The request for reconsideration is denied.

/s/ Ronald Berger
for Robert P. Murphy
General Counsel